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COMMITTEE OF THE WHOLE

SUMMARY RECORD OF THE 40th MEETING

Held at the Headquarters of the Food and Agriculture Organization of the United Nations on Thursday, 16 July 1998, at 10 a.m.

Chairman: Mr. P. KIRSCH (Canada)

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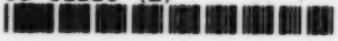

The meeting was called to order at 10.25 a.m.

ORGANIZATION OF WORK

1. **The CHAIRMAN** said that in view of the fact that time was running out and that work remained to be done, it was the intention of the Bureau to put together in a single document the texts of the articles adopted by the Drafting Committee, the texts formulated by the Working Groups and the Coordinators and the texts that had emerged through consultations, in order to facilitate the work of the Committee of the Whole. It was suggested that the Committee should meet again the following day to take a decision on that document. At the present meeting, the Committee of the whole would consider a report from the Working Group on Procedural Matters on Parts 5, 6, 7 and 8 of the draft Statute and a report from the Coordinator for Part 12.

CONSIDERATION OF THE QUESTION CONCERNING THE FINALIZATION AND ADOPTION OF A CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTIONS 51/207 OF 17 DECEMBER 1996 AND 52/160 OF 15 DECEMBER 1997 (*continued*) (A/CONF.183/2/Add.1 and Corr.1; A/CONF.183/C.1/L.78; A/CONF.183/C.1/WGPM/L.2/Add.8)

Parts 5, 6, 7 and 8 of the draft Statute (continued)

2. **Ms. FERNANDEZ de GURMENDI** (Argentina), Coordinator of the Working Group on Procedural Matters, introducing the Group's last report (A/CONF.183/C.1/WGPM/L.2/Add.8), said that the Group was transmitting to the Committee for consideration a series of provisions that had been left pending. She thanked all delegations which had participated in the Group for their cooperation.

3. **Mr. HARRIS** (United States of America) thought that, in order to correctly reflect what had been agreed, the words "shall hold a hearing in the absence of the accused" in paragraph 1 *bis* of article 61 should be amended to read "may hold a hearing in the absence of the accused".

4. *It was so decided.*

5. **Mr. BUCHET** (France) thought that, after the word "may", the words "at the request of the Prosecutor or on its own motion" should be added.

6. *It was so decided.*

7. **The CHAIRMAN** said he took it that, with those amendments, the Committee agreed to refer the provisions contained in the report to the Drafting Committee.

8. *It was so decided.*

Part 12 of the draft Statute

9. **Mr. RAMA RAO** (India), Coordinator, introducing document A/CONF.183/C.1/L.78, said that the financing of the Court was a question of critical importance which had been the subject of delicate and sensitive negotiations. An agreed solution had finally been arrived at.

10. Article 103 was a new provision; the original article 103 had become article 103 *bis*. A new element was that the provisions covered not only the expenses of the Court but also those of meetings of the Assembly of States Parties, including its Bureau and subsidiary bodies, if any. The travel costs of those attending the Assembly would not, of course, be covered.

11. The scope of article 104 had likewise been extended to cover the Assembly of States Parties. He also drew attention to a correction to be made in the *chapeau*.*

12. Articles 105 and 106 represented a delicate compromise. The whole text submitted was the result of lengthy negotiations and he urged the Committee to accept it as it stood.

13. **Mr. ASSHAIBANI** (Yemen) said that the Arabic version of article 105 should be brought into line with the English version.

14. **The CHAIRMAN** asked whether, subject to that understanding, the Committee agreed to refer the articles recommended by the Coordinator to the Drafting Committee.

15. *It was so decided.*

16. **Ms. SUNDBERG** (Sweden) said that the text of Part 12 had been painstakingly negotiated, with substantial concessions made on both sides, but she particularly regretted that no agreement had been reached on the financing of the Court in its initial phase. In her view, the wording of article 104 (b) should be interpreted as making it possible for the Court to seek funds from the United Nations during its initial phase, should that be necessary in order to ensure its proper functioning. Concerning article 105, her delegation's view was that the expression "as additional funds" should be interpreted as meaning that voluntary contributions should not be used for meeting core expenses of the Court: those expenses should be met by assessed contributions.

17. **Ms. CHATOOR** (Trinidad and Tobago) associated herself with the views expressed by the representative of Sweden. She deeply regretted that more had not been achieved, but was prepared to go along with the text proposed in order to help achieve the objectives of the Conference.

The meeting rose at 10.55 a.m.

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*See document A/CONF.183/C.1/L.78/Corr.1, circulated subsequently.